

## § 1023.101

that purposes of the CDA or the interests of justice would be advanced thereby and provided both parties consent. Parties should not consume an entire period authorized for an action if the action can be sooner completed. Informal communication between parties is encouraged to reduce time periods whenever possible.

(c) The Board shall conduct proceedings in compliance with the security regulations and requirements of the Department or other agency involved.

### Subpart A—Rules of the Board of Contract Appeals

AUTHORITY: Pub. L. 95-91, sec. 301, 91 Stat. 577; Pub. L. 95-563; EO 10789.

SOURCE: 44 FR 64270, Nov. 6, 1979, unless otherwise noted.

#### § 1023.101 Scope and purpose.

The rules of the Board of Contract Appeals are intended to govern all appeal procedures before the Department of Energy Board of Contract Appeals (Board) which are within the scope of the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*). The rules, with modifications determined by the Board to be appropriate to the nature of the dispute, also apply to all other contract and subcontract related appeals which are properly before the Board.

[62 FR 24808, May 7, 1997]

#### § 1023.102 Effective date.

The rules of the Board of Contract Appeals shall apply to all proceedings filed on or after June 6, 1997, except that Rule 1 (a) and (b) of § 1023.120 shall apply only to appeals filed on or after October 1, 1995.

[62 FR 24808, May 7, 1997]

#### § 1023.120 Rules of practice.

The following rules of practice shall govern the procedure as to all contract disputes appealed to this Board in accordance with this subpart:

##### PRELIMINARY PROCEDURES

###### Rule

- 1 Appeals, how taken.
- 2 Notice of appeal, contents.

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- 3 Docketing of appeals.
- 4 Contracting officer appeal file.
- 5 Motions.
- 6 Appellants election of procedure.
- 7 Pleadings.
- 8 Amendments of pleadings or record.
- 9 Hearing election.
- 10 Submission of appeal without a hearing.
- 11 Prehearing briefs.
- 12 Prehearing conference.
- 13 Optional Small Claims (Expedited) procedure.
- 14 Optional Accelerated procedure.
- 15 Settling the record.
- 16 Discovery—General.
- 17 Discovery—Depositions, interrogatories, admissions, production and inspection.
- 18 Subpoenas.
- 19 Time and service of papers.

##### Hearings

- 20 Hearings—Time and place.
- 21 Hearings—Notice.
- 22 Hearings—Unexcused absence of a party.
- 23 Hearings—Rules of evidence and examination of witnesses.

##### Representation

- 24 Appellant.
- 25 Respondent.

##### Decisions

- 26 Decisions.
- 27 Motion for reconsideration.
- 28 Remand from court.

##### Dismissals

- 29 Dismissals without prejudice.
- 30 Dismissal for failure to prosecute.

##### Sanctions

- 31 Failure to obey Board order.

##### PRELIMINARY PROCEDURES

Rule 1 Appeals, How Taken. (a) Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy of the notice shall be furnished at the same time to the contracting officer from whose decision the appeal is taken.

(b) Where the contractor has submitted a claim of \$100,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and where the contracting officer has not done so, the contractor may file a notice of appeal as provided in subparagraph (a) above, citing the failure of the contracting officer to issue a decision.

(c) Where the contractor has submitted a claim in excess of \$100,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time,